

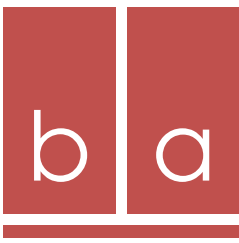
2021

PERIODIC REEXAMINATION REPORT OF THE MASTER PLAN & DEVELOPMENT REGULATIONS

**Clinton Township
Hunterdon County, New Jersey**

May 27, 2021





COMMUNITY PLANNING
LAND DEVELOPMENT AND DESIGN
LANDSCAPE ARCHITECTURE

B U R G I S
A S S O C I A T E S , I N C .

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Township of Clinton
Hunterdon County, New Jersey

Prepared for:
Township of Clinton Planning Board
BA# 3755.10

The original document was appropriately signed and sealed on May 27, 2021 in accordance with
N.J.S.A. 45:14A-12.

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I. INTRODUCTION

1.1 REPORT OVERVIEW

The preparation and adoption of a Master Plan is a function of the Planning Board in accordance with the Municipal Land Use Law ("MLUL") (N.J.S.A. 40:55D-1 et seq.), which defines 'master plan' as *"a composite of one or more written or graphic proposals for the development of the municipality."* In other words, a master plan sets forth a municipality's land use policies, goals and objectives intended to guide future development consistent with the vision of the community. The MLUL further stipulates that a municipality's zoning ordinance must be consistent with its master plan. To encourage this harmonization, the MLUL also requires the Planning Board to conduct a periodic reexamination of the master plan and development regulations at least every 10 years to ensure consistency between both documents as local and regional conditions change over time.

Clinton Township's first comprehensive Master Plan was adopted in 1962 which has since been updated on a regular basis to address the community's development issues relating to its agricultural heritage, changing development patterns, affordable housing and inclusion in the New Jersey Highlands Region, among other notable conditions. The Planning Board adopted Clinton Township's most recent comprehensive Reexamination Report of the Master Plan and Development Ordinances on March 16, 2020.

This report has been prepared to identify and incorporate an emergent inclusionary housing opportunity in the Township and associated amendments to the Township's 2018 Housing Element and Fair Share Plan and 2006 Land Use Plan Element. The Township's 2021 Reexamination Report is generally consistent with the land use policies and goals of the Township's previous planning documents, particularly its 2020 Reexamination Report. The recommendations set forth in this report are primarily intended to preserve and enhance the rural character of the community, protect existing residential areas and provide affordable housing as detailed herein.

1.2 LEGAL REQUIREMENTS FOR REEXAMINATION REPORTS

The MLUL establishes the legal requirements and criteria for the preparation of master plans and reexamination reports. Specifically, in accordance with N.J.S.A. 40:55D-89, reexamination reports must include the following components:

1. The major problems and objectives relating to land development in the municipality at the time of the adoption of the last reexamination report;
2. The extent to which such problems and objectives have been reduced or have increased subsequent to such date;
3. The extent to which there have been significant changes in the assumptions, policies and objectives forming the basis for the master plan or development regulations as last revised, with particular regard to the density and distribution of population and land use, housing conditions, circulation, conservation of natural features, energy conservation, collection, disposition and recycling of designated recyclable materials, and changes in State, County and municipal policies and objectives;
4. The specific changes recommended for the master plan or development regulations, if any, including underlying objectives, policies and standards, or whether a new plan or regulation should be prepared;
5. The recommendations of the planning board concerning the incorporation of redevelopment plans adopted pursuant to the "Local Redevelopment and Housing Law," into the land use plan element of the municipal Master Plan, and recommended changes, if any, in the local development regulations necessary to effectuate the redevelopment plans of the municipality.

II. 2020 REEXAMINATION REPORT MAJOR PROBLEMS & OBJECTIVES

As part of the overall master plan reexamination analysis, the MLUL requires an identification of the major problems and objectives related to land development at the time of adoption of the previous Reexamination Report as well as the extent to which those problems and objectives have reduced or increased since the adoption of the last report. Clinton Township's major land use problems and objectives identified in the Township's 2020 Reexamination Report of the Master Plan are summarized as follows:

2.1 2020 REEXAMINATION REPORT GOALS & OBJECTIVES

The Township's 2020 Reexamination Report generally affirmed the objectives cited in the Township's 2015 Reexamination Report, including the following in no particular order:

1. Preserve farmland and support farming operations in the community.
2. Protect environmentally sensitive areas through open space acquisition and development regulations.
3. Address housing needs, especially for low and moderate-income housing.
4. Address continued growth in traffic on major highway corridors and local roads while maintaining scenic character of the roadway.
5. Address demands and needs for community facilities and services.
6. Maintain a stable economy and a favorable property tax base despite limited growth in non-residential development.

2.2 PLANNING ISSUES

At the time of the adoption of the 2020 Reexamination Report, the Township had reached a settlement agreement with Fair Share Housing Center which established the municipality's Third Round affordable housing obligations. The Settlement Agreement was signed December 12, 2017 (the "initial settlement agreement") and subsequently amended on February 5, 2018 (the "Amended Settlement Agreement") and again on June 15, 2020 (the "second amendment"), and most recently on May 6, 2021 (the "Third Amendment to the Settlement Agreement").

On April 3, 2018, the Superior Court (Hon. Thomas Miller, A.J.S.C., presiding) approved the Amended Settlement Agreement after a fairness hearing. The Court subsequently entered a Final Judgment of Compliance and Repose in favor of the Township on January 9, 2019, determining that the Township's 2018 Housing Element and Fair Share Plan as well as its implementing ordinances and related documents complied with the Township's Mount Laurel constitutional obligations. The Appellate Division affirmed the Township's Judgment of Compliance and Repose of its Third Round Housing Element and Fair Share Plan on January 30, 2020.

Pursuant to the Third Amendment to Settlement Agreement, the Township is removing from its Third Round Fair Share Plan the 89-unit 100% affordable housing project at Block 29, Lot 4 known as the "LeCompte Site" and is replacing it with an inclusionary development on Block 70 Lots 6 and 6.01, an 11.7-acre property, intended to accommodate a total of 146 units with a 55% affordable housing set-aside yielding 80 low and moderate-income units. The unit mix of low and moderate-income units will be provided in accordance with New Jersey's Uniform Housing Affordability Controls ("U.H.A.C.") (N.J.A.C. 5:80-26.1 et seq.) and Council on Affordable Housing's (COAH) Second Round Rules (N.J.A.C. 5:93 et seq.) or other prevailing State regulation.

The Township is also planning for a second inclusionary development located on Block 77.01, Lots 2, 3, and 4 consisting of a total of 30 units on 2.44-acres, with a 20% set aside, which will yield 6 affordable units. In addition, the Township will fund 3 municipally-sponsored special needs affordable housing bedrooms to be created on a site with access to water and sewer at a location to be determined by the end of 2021.

The three replacement mechanisms will yield a total of 89 affordable housing units which is the number of affordable housing units that would have been produced by the 100% affordable housing project previously proposed on Block 29, Lot 4 known as the "LeCompte Site".

III. EXTENT OF REDUCTION/INCREASE IN PROBLEMS & OBJECTIVES

The extent to which each of the problems and objectives listed in Section II above, have been reduced or have increased subsequent to the date of the last reexamination report.

Affordable Housing: Since the adoption of the 2018 Housing Element and Fair Share Plan and 2020 Reexamination Report, an opportunity has been presented to the Township to provide an inclusionary development with a 55% affordable housing set-aside funded by Low Income Housing Tax Credits ("LIHTC"). While the Township's 2018 Housing Element and Fair Share Plan meets the Township's current affordable housing obligations, the Township recognizes that not all 100% affordable housing projects come to fruition and that, specifically, the proposed developer of the 100% affordable housing project at the LeCompte site was unable to secure a contract to purchase the site from the owner. As a result, the Township explored and proposed an emergent opportunity to develop Block 70 Lots 6 and 6.01 for affordable housing and the Planning Board has reviewed this emergent opportunity to develop Block 70 Lots 6 and 6.01 as well as the two other mechanisms referenced above and confirmed that the proposals are consistent with the goals and objectives of the Township's Master Plan and Third Amendment to the Settlement Agreement. The Township Master Plan seeks to address its affordable housing obligations in a manner which is intended to preserve and enhance the rural character of the community and protect existing residential areas. After reviewing the development proposal, the Planning Board finds this emergent opportunity meets those goals and objectives.

It is noted that the Willows at Annandale (Beaver Brook Homestead) 100% affordable development consisting of 66 units is now developed and occupied. The final site plan application for the Township's 84-unit 100% project at the Marookian site is scheduled before the Planning Board in July 2021 after having been awarded the competitive 9% low income housing tax credit award by the New Jersey Housing and Mortgage Finance Agency ("HMFA"). These affordable housing developments and the new inclusionary projects discussed in Section II of this report demonstrate the Township's continued commitment to address its Third Round affordable housing obligations in accordance with the Township's 2018 Housing Element and Fair Share Plan. The Township's Housing Element and Fair Share Plan and Land Use Plan Element are being simultaneously amended with the adoption of this report to incorporate the inclusionary developments of Block 70, Lots 6 and 6.01 and Block 77.01 Lots 2, 3 and 4 and remove the previously planned 100% affordable development of Block 29 Lot 4 from the Township's fair share plan mechanisms.

III. CHANGES IN ASSUMPTIONS, POLICIES & OBJECTIVES

The MLUL requires reexamination reports to address *"the extent to which there have been significant changes in the assumptions, policies and objectives forming the basis for the master plan or development regulations as last revised, with particular regard to the density and distribution of population and land uses, housing conditions, circulation, conservation of natural resources, energy conservation, collection, disposition and recycling of designated recycling materials, and changes in State, county and municipal policies and objectives."*

3.1 AFFORDABLE HOUSING

Clinton Township's 2018 Housing Element and Fair Share Plan provides for flexibility in recognizing that development alternatives other than those specifically identified in the 2018 Plan may become available and be better suited to assist the Township in addressing its affordable housing obligations. The Township's Housing Element and Fair Share Plan may therefore be amended at any time to include new developments that are determined to be appropriate.

As mentioned above, the Township intends to remove Block 29, Lot 4, the 'LeCompte Site' from its Third Round Fair Share Plan and replace it with the emergent development opportunity referenced above which will create eighty (80) affordable units at a site located on Block 70, Lots 6 and 6.01, a site which is currently located in the C-1 Zone on State Highway 31. This site presents a unique opportunity for the municipality to further address its fair share housing obligations. The site is 11.7-acres and is proposed to provide 146 mixed-income units with a significant affordable housing set-aside of 55%, yielding 80 affordable units for residents of low and moderate incomes. The Township Council intends to introduce an ordinance creating the AH-9 Affordable Housing District in June 2021 to be adopted shortly thereafter establishing the development regulations for this project.

In addition, the development of Block 79, Lots 6 and 6.01, when combined with the contemplated development of Block 77.01, Lots 2, 3 and 4, a durational adjustment project in the Township's 2021 Housing Element and Fair Share Plan Amendment, is anticipated to provide a total of 86 affordable housing units. The Township has also committed to funding a three-bedroom special needs housing project at a site to be determined. These developments will yield a total of 89 affordable housing units and will replace the previously contemplated 89-unit affordable development at the LeCompte Site to address a portion of the Township's Third Round affordable housing obligations.

3.2 RECREATIONAL MARIJUANA

On February 22, 2021, Governor Murphy signed into Law P.L. 2021 c. 16 known as the “New Jersey Cannabis Regulatory, Enforcement Assistance and Marketplace Modernization Act” which generally legalizes recreational marijuana related uses in New Jersey from seed to sales to consumption. Municipalities have until August 2021 to “opt out” or prohibit such regulations as has been recommended by the League of Municipalities until at least such time the State has formally adopted regulations for marijuana uses. Failure to opt out of any or all of the 6 classifications of marijuana related businesses will allow such uses to operate for a period of 5 years within which a municipality cannot amend its ordinances to prohibit or regulate such uses. As such, Clinton Township adopted Ordinance No. 1150-2021 on May 12, 2021 prohibiting all classifications of businesses related to recreational marijuana as the use regulations have yet to be established by the State and, until the Township has the opportunity to fully vet the use regulations it is not in a position to determine whether to continue its prohibition of all recreational marijuana uses or permit some in appropriate locations. The Planning Board supports the Township’s adoption of Ordinance No. 1150-2021 based on the use regulations not yet being established by the State and the fact that if a prohibition was not put in place, the Township would not be able to opt out if it wanted to for a 5 year period.

3.3 CLIMATE CHANGE

On February 4, 2021, Governor Murphy signed Bill A-2785/S-2607 amending the MLUL (N.J.S.A. 40:55D-28(2)(2)(h)) which requires that any land use element of a master plan adopted after February 4, 2021 include a climate change-related hazard vulnerability assessment. The assessment shall consider:

1. Environmental effects associated with climate change and extreme weather-related events including, but not limited to, temperature, drought, and sea-level rise;
2. Contain measures to mitigate reasonably anticipated natural hazards including, but not limited to, coastal storms, shoreline erosion, flooding storm surge and wind following best management practices recommended by FEMA. Additionally, the bill requires the NJDEP, upon request by a planning board, to provide technical assistance to a municipality preparing a climate change-related hazard vulnerability assessment as required by law;
3. Analyze current and future threats to, and vulnerabilities of, the municipality associated with climate change-related natural hazards;
4. Include a build-out analysis of future residential, commercial, industrial, and other development in the municipality, and an assessment of the threats and vulnerabilities identified in (1) above related to that development;

5. Identify critical facilities, utilities, roadways, and other infrastructure that is necessary for evacuation purposes and for sustaining quality of life during a natural disaster, to be maintained at all times in an operational state;
6. Analyze the potential impact of natural hazards on relevant components and elements of the master plan;
7. Provide strategies and design standards that may be implemented to reduce or avoid risks associated with natural hazards;
8. Include a specific policy statement on the consistency, coordination, and integration of the climate-change related hazard vulnerability assessment with certain other plans adopted by the municipality; and
9. Rely on the most recent natural hazard projections and best available science provided by the New Jersey Department of Environmental Protection.

It is noted that Clinton Township is located in the Highlands Region of New Jersey and is not a coastal community and therefore is not subject to some of the above concerns related to coastal communities. However, this new climate change land use plan element feature is required for all municipalities. When Clinton Township prepares its next Land Use Plan Element, the Township will be required to address the applicable components including those related to flooding, assessment of threats and vulnerabilities, critical infrastructure resiliency and general natural hazard risk mitigation.

IV. SPECIFIC CHANGES RECOMMENDED

The MLUL requires the identification of specific changes recommended for the master plan or development regulations, if any, including changes to the underlying objectives, policies and standards, or whether an entirely new master plan or development regulations should be prepared. This 2021 Reexamination Report identifies a number of recommended changes, as set forth below.

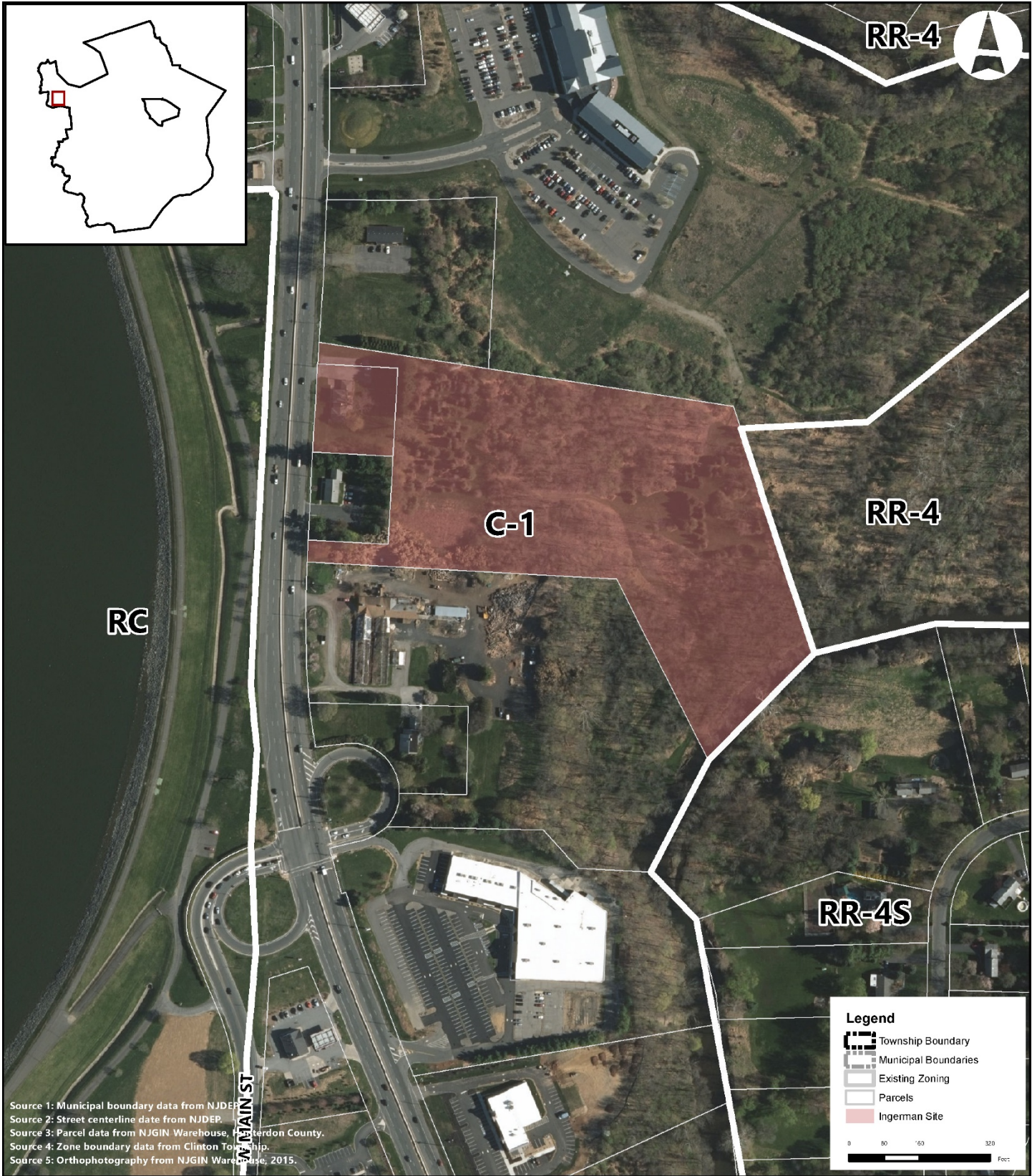
Amend the Township's 2018 Housing Element and Fair Share Plan, 2006 Land Use Plan Element and development regulations as follows:

1. Inclusionary Development of Block 70 Lots 6 and 6.01

This proposed mixed-income housing development is located on Route 31 just north of the interchange with County Route 513 on the eastern side of the highway. The site is 11.7 acres and is currently developed with a veterinary hospital. The proposed development consists of a 146-unit development with a 55 percent affordable housing set-aside that will generate 80 units of low and moderate-income housing. It is anticipated that the project will be funded through the Low-Income Housing Tax Credit program for which an application will be submitted in August 2021.

The Township Council will introduce an ordinance in June 2021 creating the AH-9 Affordable Housing District that will establish the land use regulations for this development. See Map 1 below for an overview of the site and surrounding development pattern.

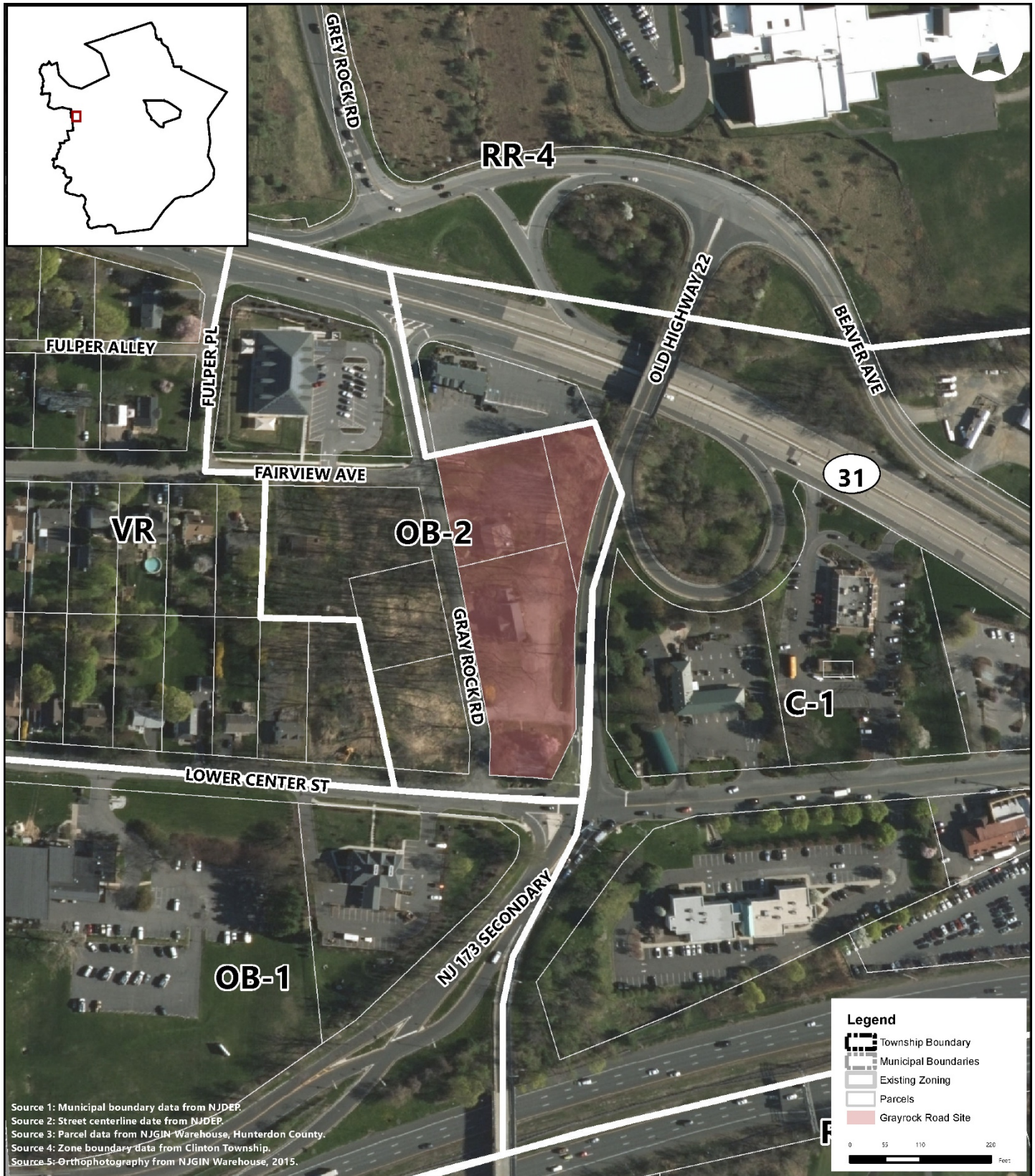
Map 1: Site Serial Map of Block 70, Lots 6 and 6.01



2. Inclusionary Development of Block 70.1 Lots 2, 3 and 4

Clinton Township anticipates either rezoning and/or requesting that the Planning Board undertake an “area in need of redevelopment” study for the site encompassing Block 70.01 Lots 2, 3 and 4 on Grayrock Road. In accordance with the Township’s Third Amendment to its Settlement Agreement with Fair Share Housing Center, this 2.44-acre site is intended to accommodate a 30-unit inclusionary development with a 20% affordable housing set-aside that will yield 6 affordable housing units. See Map 2 below for an overview of the site and surrounding development pattern.

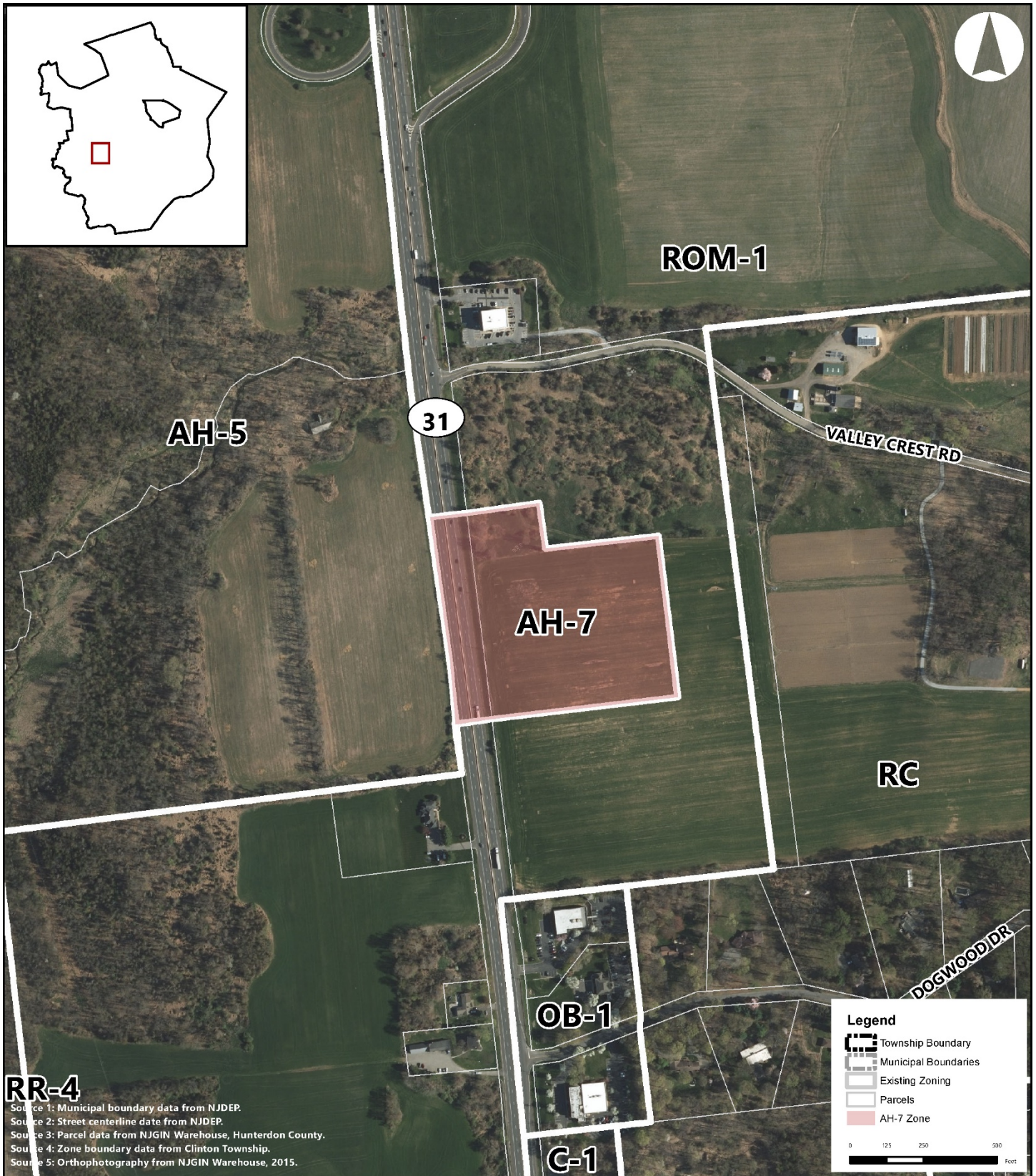
Map 2: Site Aerial Map of Block 70.01, Lots 2, 3 and 4



3. Removal of the LeCompte Site, Block 29 Lot 4, From the Township's Third Round Fair Share Plan

The two inclusionary developments noted above along with a three-bedroom municipally sponsored special needs project will replace the 89-unit 100% affordable project at Block 29 Lot 4 currently included as a plan mechanism in the Township's 2018 Housing Element and Fair Share Plan. This site will revert back to its previous ROM-1 Research, Office and Manufacturing 1 zone designation prior to its rezoning as the AH-7 Affordable Housing District. See Map 3 for an overview of the site and surrounding development pattern.

Map 3: Site Aerial Map of LeCompte Site (Block 29 Lot 4)



V. RECOMMENDATIONS CONCERNING REDEVELOPMENT PLANS

The MLUL requires reexamination reports to include *"recommendations of the Planning Board concerning the incorporation of redevelopment plans adopted pursuant to the 'Local Redevelopment and Housing Law' (LRHL)."* The LRHL sets forth the statutory framework for municipalities to designate "areas in need of redevelopment," prepare and adopt redevelopment plans and facilitate the improvement of those redevelopment areas accordingly. The Township's 2015 Reexamination Report provided an overview of the redevelopment potential of four sites as discussed below. No other redevelopment sites are contemplated at the writing of this report.

5.1 PROPOSED REDEVELOPMENT AREAS

1. Grayrock Road Redevelopment Area

Clinton Township may consider conducting an 'area in need of redevelopment' investigation to evaluate the extent to which Block 77.01 Lots 2, 3 and 4 (See Map 2 above) qualify with the criteria to be designated as a 'redevelopment area' in accordance with the New Jersey Local Redevelopment and Housing Law (N.J.S.A 40A:12A-1 et seq.). The study area is anticipated to be developed with a 30-unit multifamily inclusionary development with a 20% affordable housing set-aside in accordance with the Township's Third Amendment to its Settlement Agreement with Fair Share Housing Center.